

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Mack Juide,

Plaintiff,

v.

Case No. 16-13806

Michigan Department of Corrections,
et al.,

Sean F. Cox
United States District Court Judge

Defendants.

ORDER ADOPTING
5/31/17 REPORT AND RECOMMENDATION

Acting *pro se*, Plaintiff Mack Juide filed this action against nine different Defendants.

The matter was referred to Magistrate Judge Anthony Patti for all pretrial proceedings.

On May 31, 2017, Magistrate Judge Patti issued a Report and Recommendation (“R&R”) (Docket Entry No. 29) wherein he recommends that the Court: 1) grant Defendant Kone Inc.’s Motion to Dismiss (Docket Entry No. 20); and 2) deny the State Defendants’ Motion for Summary Judgment (Docket Entry No. 22).

The time for filing objections to the R&R has expired and the docket reflects that: 1) the State Defendants filed objections to the R&R on June 14, 2017; and 2) neither Plaintiff nor Defendant Kone filed any objections to the R&R.

The State Defendants object to the magistrate judge’s conclusion that an issue of material fact exists as to whether Plaintiff exhausted his administrative remedies as to his claim against them.

The R&R correctly notes that the State Defendants bear the burden of proving the affirmative defense of exhaustion of administrative remedies. The magistrate judge ultimately concluded that, based upon the limited evidence presented to the Court in connection with the motion, the State Defendants failed to establish that they are entitled to summary judgment. Having reviewed the R&R and the State Defendants' objections to it, this Court concurs with the magistrate judge's conclusion that the State Defendants have not established that they are entitled to summary judgment.

Accordingly, the Court hereby ADOPTS the May 31, 2017 R&R and ORDERS that: 1) Defendant Kone, Inc.'s Motion to Dismiss is GRANTED and all claims against it are DISMISSED; and 2) the State Defendants' Motion for Summary Judgment is DENIED.

IT IS SO ORDERED.

Dated: September 12, 2017

s/Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on September 12, 2017, the foregoing document was served on counsel of record via electronic means and upon Mack Juide via First Class mail at the address below:

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s/J. McCoy
Case Manager